

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	§	
Konetski, David et al.	§	
	§	Confirmation No.: 7695
Serial No. 09/771,095	§	
	§	Group Art Unit: 2157
Filed: January 26, 2001	§	
	§	Examiner: Dalencourt, Yves
For: SYSTEM AND METHOD FOR	§	
USING RESOURCES OF A	§	
COMPUTER SYSTEM IN	§	
CONJUNCTION WITH A THIN	§	
MEDIA CLIENT	§	

BRIEF OF APPELLANT

Mail Stop Appeal Briefs – Patent
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Brief is submitted in connection with an appeal from the Final Rejection of the Examiner mailed to the Applicants on April 14, 2008, finally rejecting claims 27, 29-46 and 48-52 all of the pending claims in this applications.

REAL PARTY IN INTEREST

The real party in interest is Dell Products, L.P., a Texas Limited Partnership, having a principal place of business at One Dell Way, Round Rock, Texas 78661, United States of America. This is evidenced by an assignment recorded with the U.S. Patent and Trademark Office on January 26, 2001 at Reel 011490 Frame 0324.

RELATED APPEALS AND INTERFERENCES

There are no related appeals and no related interferences regarding the above-identified patent application.

STATUS OF CLAIMS

The status of the claims is as follows:

Claims 27, 29-46 and 48-52 are pending in the application and are rejected.

Claims 27, 29-46 and 48-52 are being appealed.

Claims 1-26, 28 and 47 are canceled.

Claims 27, 29-46 and 48-52 are set forth in the CLAIMS APPENDIX, attached hereto.

STATUS OF AMENDMENTS

A Final Office Action was mailed to the Applicants on April 14, 2008, finally rejecting claims 27, 29-46 and 48-52.

The Examiner has stated that for purposes of Appeal, the proposed amendment after final, filed February 8, 2008, will be entered. The claims rejected and pending are 27, 29-46 and 48-52.

A Notice of Panel Decision from the Pre-Appeal Brief Review was mailed on August 11, 2008, indicating that claims 27, 29-46 and 48-52 were rejected and that the application remains under appeal because there is at least one actual issue for appeal, and requiring Applicants to submit an Appeal Brief in accordance with 37 CFR §41.37.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention, in an embodiment, as now set forth in independent claim 27, relates to a personal computer comprising a processor and a memory for:

retrieving digital media content from a content provider, wherein the retrieving is performed by a processor of a personal computer; Page 7, line 27 – Page 8, line 18; Figs. 1-2.

performing a digital rights management function associated with an authorized user resulting in authorized digital media content, wherein the digital rights management function is performed by the processor of the personal computer; Page 5, line 26 – Page 6, line 6; Figs. 1-2.

storing the authorized digital media content in a memory of the personal computer; and Page 6, line 16 – Page 7, line 3; Figs. 1-2.

providing the authorized digital media content via a user interface to a thin media client without performing a digital rights management function on the thin media client, wherein the

providing is performed by the personal computer, and wherein the thin media client comprises an input/output (IO) device coupled to the personal computer. Page 10, lines 10 - 25; Figs. 1-2.

The present invention, in an embodiment, as now set forth in independent claim 40, relates to a personal computer comprising a processor and a memory for:

retrieving digital media content from a content provider, wherein the retrieving is performed by a processor of the personal computer; Page 7, line 27 – Page 8, line 18; Figs. 1-2.

selecting via a user interface organization functions to be performed on the digital media content, wherein the user interface is provided by the personal computer; Page 7, lines 5 - 15; Figs. 1-2.

performing the organization functions on the digital media content resulting in organized digital media content, wherein the organization functions are performed by the processor of the personal computer; Page 7, lines 5 - 15; Figs. 1-2.

storing the organized digital media content in a memory of the personal computer; and Page 6, line 16 – Page 7, line 3; Figs. 1-2.

providing the organized digital media content via the user interface to a thin media client, wherein the providing is performed by the personal computer, and wherein the thin media client comprises an input/output (IO) device coupled to the personal computer. Page 7, lines 5 - 15; Figs. 1-2.

The present invention, in an embodiment, as now set forth in independent claim 46, relates to a method performed by a personal computer comprising:

retrieving digital media content from a content provider, wherein the retrieving is performed by a processor of the personal computer; Page 7, line 27 – Page 8, line 18; Figs. 1-2.

performing a digital rights management function associated with an authorized user resulting in authorized digital media content, wherein the digital rights management function is performed by the processor of the personal computer; Page 5, line 26 – Page 6, line 6; Figs. 1-2.

storing the authorized digital media content in a memory of the personal computer; and Page 6, line 16 – Page 7, line 3; Figs. 1-2.

providing the authorized digital media content via a user interface to a thin media client without performing a digital rights management function on the thin media client, wherein the providing the authorized digital media content is performed by the personal computer, and

wherein the thin media client comprises an input/output (IO) device coupled to the personal computer. Page 10, lines 10 - 25; Figs. 1-2.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 27, 29-46 and 48-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raley (U.S. Patent No. 7,073,199) (Raley hereinafter) in view of Platt (U.S. Patent No. 6,987,221) (Platt hereinafter).

ARGUMENT

Independent Claims 27, 40 and 46 recite:

Claim 27

A personal computer comprising a processor and a memory for:

- retrieving digital media content from a content provider, wherein the retrieving is performed by a processor of a personal computer;
- performing a digital rights management function associated with an authorized user resulting in authorized digital media content, wherein the digital rights management function is performed by the processor of the personal computer;
- storing the authorized digital media content in a memory of the personal computer; and
- providing the authorized digital media content via a user interface to a thin media client without performing a digital rights management function on the thin media client, wherein the providing is performed by the personal computer, and wherein the thin media client comprises an input/output (IO) device coupled to the personal computer.

Claim 40

A personal computer comprising a processor and a memory for:

- retrieving digital media content from a content provider, wherein the retrieving is performed by a processor of the personal computer;
- selecting via a user interface organization functions to be performed on the digital media content, wherein the user interface is provided by the personal computer;
- performing the organization functions on the digital media content resulting in organized digital media content, wherein the organization functions are performed by the processor of the personal computer;
- storing the organized digital media content in a memory of the personal computer; and
- providing the organized digital media content via the user interface to a thin media client, wherein the providing is performed by the personal computer, and wherein the thin media client comprises an input/output (IO) device coupled to the personal computer.

Claim 46

A method performed by a personal computer comprising:

- retrieving digital media content from a content provider, wherein the retrieving is performed by a processor of the personal computer;
- performing a digital rights management function associated with an authorized user resulting in authorized digital media content, wherein the digital rights management function is performed by the processor of the personal computer;
- storing the authorized digital media content in a memory of the personal computer; and
- providing the authorized digital media content via a user interface to a thin media client without performing a digital rights management function on the thin media client, wherein the providing the authorized digital media content is performed by the personal computer, and wherein the thin media client comprises an input/output (IO) device coupled to the personal computer.

THERE IS NO SUPPORT FOR AN OBVIOUSNESS REJECTION OF THE CLAIMED SUBJECT MATTER AS A WHOLE BECAUSE RALEY AND PLATT FAIL TO DISCLOSE EACH ELEMENT OF THE CLAIMS OR SUGGEST THE MISSING ELEMENTS.

As recited below, Applicant contends that the Examiner has improperly applied the combination of Raley and Platt to independent claims 27, 40 and 46 and their respective dependent claims. More specifically, the Applicant contends that the cited combination of references is defective in establishing a *prima facie* case of obviousness with respect to each of claims, 27, 40 and 46.

A *prima facie* case of obviousness is missing for the claimed subject matter as a whole because Raley and Platt fail to disclose each element of the claims or to suggest the missing elements.

When combined, the references do not teach the claimed subject matter

As the PTO recognizes in MPEP §2142:

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the Examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

The USPTO clearly cannot establish a *prima facie* case of obviousness in connection with the amended claims for the following reasons:

35 U.S.C. §103(a) provides that:

[a] patent may not be obtained...if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.... (emphasis added)

Thus, when evaluating a claim for determining obviousness, all limitations of the claim must be evaluated. However, it is submitted that the references, alone, or in any combination, at least, do not teach the elements of "providing the authorized digital media content via a user interface to a thin media client without performing a digital rights management function on the thin media client, wherein the providing is performed by the personal computer, and wherein the thin media client comprises an input/output (IO) device coupled to the personal computer," as

recited in independent claims 27 and substantially recited in independent claims 40 and 46, and defined throughout the specification and figures of the pending application.

The rejection concedes on page 3 of the Office Action mailed April 14, 2008 that "Raley . . . fails to specifically teach that the thin media client comprises an input/output (I/O) device coupled to the personal computer." Emphasis added. Similarly, it is submitted that Platt also fails to teach such elements of the pending claims.

The rejection points to column 17, lines 5-27 of Platt for teaching "an analogous auto playlist generation with multiple seed songs, wherein the thin media client comprises an input/output (IO) device coupled to the personal computer." Emphasis added. This argument is respectfully traversed.

As found on page 3 of the pending application the "term thin media client refers to a device that is configured to perform one or more functions using digital media content and is configured to **leverage the processing, storage, and buffering capabilities of a computer system.**" Page 3, lines 24-27. Emphasis added. In addition,

A principal advantage of this embodiment is that it **allows a thin media client to use the resources of a computer system in a home network.** The cost and complexity of the thin media client is reduced by having the computer system perform many of the processing and storage functions of the media client. In addition, resources of the computer system not normally found in a media client may enhance the features of the media client.

Page 2, lines 12-17. Emphasis added. Furthermore, the specification explains that

[t]he functions and operations of three example thin media clients, audio client 110, video client 120, and image client 130, will now be discussed. . . Audio client 110 is configured to play audio from digital media content. Processor 112, memory 114, and network device 116 provide audio client 110 with the ability to operate and communicate with computer system 100 to retrieve digital audio content. In audio client 110, device 118 may be any audio device such as speakers or headphones capable of producing audio and may be located externally or separate from audio client 110. . . Video client 120 is configured to play video from digital media content. Processor 122, memory 124, and network device 126 provide video client 120 with the ability to operate and communicate with computer system 100 to retrieve digital video content. In video client 120, device 118 may be any video device such as a display screen capable of displaying video and may be located externally or separate from video client 120. . . Image client 130 is configured to display images or graphics from digital media content. Processor 132, memory 134, and network device 136 provide image client 130 with the ability to operate and communicate with computer system 100 to retrieve digital image content. In image client 110, device 118 may be any

image or graphics device such as a display screen capable of displaying images or graphics and may be located externally or separate from image client 130.

Page 7, line 15 – Page 9, line 17. Emphasis added to provide examples.

However, the cited portion of Platt relates to Fig. 15, which includes a computer 1512 and a remote computer 1544. As defined in Platt,

[t]he computer 1512 includes a processing unit 1514, a system memory 1516, and a system bus 1518. The system bus 1518 couples system components including, but not limited to, the system memory 1516 to the processing unit 1514. The processing unit 1514 can be any of various available processors. Dual microprocessors and other multiprocessor architectures also can be employed as the processing unit 1514.

Column 16, lines 7-14.

Computer 1512 can operate in a networked environment using logical connections to one or more remote computers, such as remote computer 1544. The remote computer 1544 can be a personal computer, a server, a router, a network PC, a workstation, a microprocessor based appliance, a peer device or other common network node and the like, and typically includes many or all of the elements described relative to computer 1512.

Column 17, lines 28-35. Emphasis added. As such, neither computer 1512 nor 1544 of Platt teach being configured to leverage the processing, storage, and buffering capabilities of a different computer system.

Thus, it is clear that neither the computer 1512, nor the remote computer 1544 of Platt teach a thin media client, as recited in the pending claims and defined throughout the specification and figures of the pending application.

In addition, the terms “thin” and “leverage” are not found in the specification of Platt. Therefore, it is also submitted that Platt **could not teach** a thin media client configured to leverage the processing, storage, and buffering capabilities of a computer system by having the computer system perform many of the processing and storage functions of the media client.

In light of the above, it is impossible to render the subject matter of the claims as a whole obvious based on a single reference or any combination of the references, and the above explicit terms of the statute cannot be met. As a result, the USPTO’s burden of factually supporting a *prima facie* case of obviousness clearly cannot be met with respect to the claims, and a rejection under 35 U.S.C. §103(a) is not applicable.

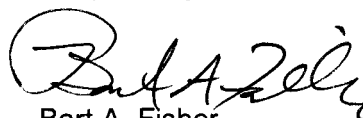
Therefore, it is submitted that independent claims 27, 40 and 46 and their respective dependent claims are allowable and the rejection of the pending claims should be reversed.

CONCLUSION

In light of all the above, it is respectfully submitted that the various combinations of references fail to each or suggest all of the subject matter of the pending claims and establish a *prima facie* case of obviousness as the claims are recited and defined throughout the specification and figures.

For all of the foregoing reasons, it is respectfully submitted that claims 27, 29-46 and 48-52 be allowed. Reversal of the rejection and a notice of allowance for all pending claims is respectfully requested.

Respectfully submitted,



Bart A. Fisher

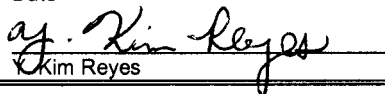
Registration No. 55,181

Dated: 9-4-08
Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202
Telephone: 512.867.8458
Facsimile: 214.200.0853
ipdocketing@haynesboone.com

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office, via EFS-Web, on the date indicated below:

on September 4, 2008
Date


Kim Reyes

CLAIMS APPENDIX

This listing of claims will replace all prior versions, and listings, of claims in the application:

1. – 26. (Canceled)
27. (Previously Presented) A personal computer comprising a processor and a memory for:
 - retrieving digital media content from a content provider, wherein the retrieving is performed by a processor of a personal computer;
 - performing a digital rights management function associated with an authorized user resulting in authorized digital media content, wherein the digital rights management function is performed by the processor of the personal computer;
 - storing the authorized digital media content in a memory of the personal computer; and
 - providing the authorized digital media content via a user interface to a thin media client without performing a digital rights management function on the thin media client, wherein the providing is performed by the personal computer, and wherein the thin media client comprises an input/output (IO) device coupled to the personal computer.
28. (Canceled)
29. (Previously Presented) The personal computer of claim 27, wherein the personal computer comprises a laptop computer.
30. (Previously Presented) The personal computer of claim 27, wherein the content provider comprises a server reachable by the personal computer over a network.
31. (Previously Presented) The personal computer of claim 27, wherein the content provider comprises a local input device.
32. (Previously Presented) The personal computer of claim 27, wherein the content provider comprises a USB device.
33. (Previously Presented) The personal computer of claim 27, wherein the content provider comprises a CD-ROM.

34. (Previously Presented) The personal computer of claim 27, wherein the user interface allows the personal computer to provide the authorized digital media content to the thin media client using Bluetooth technology.
35. (Previously Presented) The personal computer of claim 27, wherein the thin media client comprises an audio client.
36. (Previously Presented) The personal computer of claim 35, wherein the digital media content comprises an audio file.
37. (Previously Presented) The personal computer of claim 35, wherein the digital media content comprises realtime audio information.
38. (Previously Presented) The personal computer of claim 27, wherein the thin media client comprises a video client, and wherein the digital media content comprises video information.
39. (Previously Presented) The personal computer of claim 27, wherein the thin media client comprises an image client, and wherein the digital media content comprises image information.
40. (Previously Presented) A personal computer comprising a processor and a memory for:
 - retrieving digital media content from a content provider, wherein the retrieving is performed by a processor of the personal computer;
 - selecting via a user interface organization functions to be performed on the digital media content, wherein the user interface is provided by the personal computer;
 - performing the organization functions on the digital media content resulting in organized digital media content, wherein the organization functions are performed by the processor of the personal computer;
 - storing the organized digital media content in a memory of the personal computer; and
 - providing the organized digital media content via the user interface to a thin media client, wherein the providing is performed by the personal computer, and wherein the thin media client comprises an input/output (IO) device coupled to the personal computer.

41. (Previously Presented) The personal computer of claim 40, wherein the organization functions allow a user to set preferences associated with a client.
42. (Previously Presented) The personal computer of claim 40, wherein the organization functions allow a user to create playlists of stored organized digital media content.
43. (Previously Presented) The personal computer of claim 40, wherein the organization functions allow a user to manage a favorites list of organized digital media content.
44. (Previously Presented) The personal computer of claim 40, wherein the organization functions allow a user to manage the amount of organized digital media content stored on the personal computer.
45. (Previously Presented) The personal computer of claim 40, wherein the organization functions allow a user to select digital media content to be retrieved.
46. (Previously Presented) A method performed by a personal computer comprising:
 - retrieving digital media content from a content provider, wherein the retrieving is performed by a processor of the personal computer;
 - performing a digital rights management function associated with an authorized user resulting in authorized digital media content, wherein the digital rights management function is performed by the processor of the personal computer;
 - storing the authorized digital media content in a memory of the personal computer; and
 - providing the authorized digital media content via a user interface to a thin media client without performing a digital rights management function on the thin media client, wherein the providing the authorized digital media content is performed by the personal computer, and wherein the thin media client comprises an input/output (IO) device coupled to the personal computer.
47. (Canceled)
48. (Previously Presented) The method of claim 46, wherein the personal computer comprises a laptop computer.
49. (Previously Presented) The method of claim 46, wherein the content provider comprises a server.

50. (Previously Presented) The method of claim 46, wherein the peering technology comprises Bluetooth technology.
51. (Previously Presented) The method of claim 46, wherein the content provider comprises a local input device.
52. (Previously Presented) The method of claim 46, further comprising:
 - selecting via the user interface organization functions to be performed on the authorized digital media content;
 - performing the organization functions on the authorized digital media content resulting in organized authorized digital media content; and
 - providing the organized authorized digital media content via the user interface to the thin media client.

EVIDENCE APPENDIX

There is no evidence submitted pursuant to 37 CFR §§1.130, 1.131, or 1.132, nor has any other evidence been entered by the Examiner.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings, and, thus, no copies of decisions exist.